

**OFFICE OF THE DISTRICT ATTORNEY
CITY AND COUNTY OF PHILADELPHIA**

By: Lori Edelman Orem
Assistant District Attorney
3 South Penn Square
Philadelphia, PA 19107

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION, CRIMINAL SECTION**

| | | |
|-------------------------|---|------------------------------|
| COMMONWEALTH | : | |
| | : | CP-51-CR-0005094-2018 |
| v. | : | |
| | : | |
| JOVAUN PATTERSON | : | |

ORDER

AND NOW, this ____ day of _____, 2018, upon consideration of the within petition and upon motion of LAWRENCE S. KRASNER, District Attorney of Philadelphia County, by his Assistant, LORI EDELMAN-OREM, it is hereby ORDERED that the November 15, 2018, guilty plea and sentence of the Court in the above-captioned case be vacated, and a hearing scheduled on _____ for this motion.

BY THE COURT:

J.

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
TRIAL DIVISION, CRIMINAL SECTION**

COMMONWEALTH :
 :
 v. : **CP-51-CR-0005094-2018**
 :
 JOVAUN PATTERSON :

**NUNC PRO TUNC PETITION IN SUPPORT OF MOTION TO VACATE DEFENDANT'S
GUILTY PLEA AND SENTENCE**

TO THE HONORABLE JUDGE MEANS PRESIDING OVER SAID COURT:

LAWRENCE S. KRASNER, District Attorney of Philadelphia County, by his Assistant,
LORI EDELMAN-OREM, respectfully represents:

1. On November 15, 2018, the defendant pleaded guilty to charges of F1 Aggravated Assault, F1 Robbery and M1 Possessing Instruments of Crime and was sentenced to a negotiated term of 3.5-10 years state incarceration.
2. Although the victim was visited in a medical facility by a previously assigned Assistant District Attorney and subsequently contacted telephonically, the victim was not notified by the undersigned of the November 15, 2018 hearing. Accordingly, he was not afforded his rights pursuant to the Crime Victims Act, 18 Pa. Stat. Ann. § 11.201 Sections (4) – (5), which provide in relevant part that, where possible, the victim shall be entitled:

“In cases involving a personal injury crime or burglary, to submit prior comment to the prosecutor's office or juvenile probation office, as appropriate to the circumstances of the case, on the potential reduction or dropping of any charge or

changing of a plea in a criminal or delinquency proceeding, or, diversion of any case, including an informal adjustment or consent decree”; and

“To have opportunity to offer prior comment on the sentencing of a defendant or the disposition of a delinquent child, to include the submission of a written and oral victim impact statement detailing the physical, psychological and economic effects of the crime on the victim and the victim's family. The written statement shall be included in any predisposition or presentence report submitted to the court. Victim-impact statements shall be considered by a court when determining the disposition of a juvenile or sentence of an adult”.

3. Current District Attorney’s Office policy called for this offer to be reviewed by a supervisor prior to disposition which did not occur.
4. The Commonwealth is requesting nunc pro tunc relief from the Court to permit supervisory review and permit greater participation by the victim.
5. Pursuant to 42 Pa.C.S.A. § 5505, if no appeal has been taken, within 30 days after the imposition of sentence, the trial court has the discretion to grant a request to file a post-sentence motion nunc pro tunc. Commonwealth v. Dreves, 839 A.2d 1122, 1128 (2003).
6. No appeal has been taken.
7. The Commonwealth respectfully requests that the victim be given the opportunity to be heard by the Commonwealth on disposition of the case and to be heard by the Court on sentencing.

For the aforementioned reasons, the Commonwealth requests that the guilty plea and sentence be vacated and a new hearing be scheduled.

Respectfully submitted,
LAWRENCE S. KRASNER
District Attorney

BY: _____

LORI EDELMAN-OREM
Assistant District Attorney

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VERIFICATION

The undersigned hereby verifies that the facts set forth in the foregoing motion are true and correct to the best of my knowledge and belief. This verification is made subject to penalties for unsworn falsification to authorities under 18 Pa.C.S. § 4904.

Lori Edelman-Orem
Assistant District Attorney
Philadelphia District Attorney's Office
Three South Penn Square
Philadelphia, Pennsylvania 19107

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CERTIFICATE OF SERVICE

I hereby certify that on this date, I have caused the foregoing Commonwealth Motion to be served on defense counsel listed below, and in the manner indicated below, which service satisfies the requirements of Pa. R.A.P. 121:

SERVICE VIA ELECTRONIC FILING:
Phil Steinberg, Esq.
Attorney for the Defendant

Lori Edelman-Orem
Assistant District Attorney
Philadelphia District Attorney's Office
Three South Penn Square
Philadelphia, Pennsylvania 19107

Date: December 7, 2018